

**MINUTES
of the
FOURTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**December 20, 2006
State Capitol
Santa Fe**

The fourth meeting of the Investments and Pensions Oversight Committee for the 2006 interim was called to order by Representative John A. Heaton, chair, on Wednesday, December 20, 2006, at 10:00 a.m. at the State Capitol in Santa Fe.

Present

Rep. John A. Heaton, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Donald E. Bratton
Sen. Joseph J. Carraro
Sen. Phil A. Griego
Sen. Carroll H. Leavell
Rep. Luciano "Lucky" Varela

Advisory Members

James Lewis, State Treasurer
Rep. Patricia A. Lundstrom
Sen. Leonard Lee Rawson
Rep. Joe M Stell

Absent

Rep. Miguel P. Garcia
Rep. Larry A. Larranaga
Rep. Henry Kiki Saavedra

Gary Bland, State Investment Council
Sen. Pete Campos
Sen. Carlos R. Cisneros
Sen. Joseph A. Fidel
Rep. Justine Fox-Young
Frank Foy, Educational Retirement Board
Robert Gish, Public Employees
Retirement Association
Sen. Stuart Ingle
Rep. Kathy A. McCoy
Olivia Padilla-Jackson, State Board of Finance
Sen. H. Diane Snyder

Staff

Michelle Aubel, Legislative Finance Committee (LFC)
Cleo Griffith, Legislative Council Service (LCS)
Doug Williams, LCS

Guests

The guest list is in the meeting file.

Wednesday, December 20

The minutes of the November 6, 2006 meeting were unanimously adopted.

Fire Marshal's Office and Fire Academy Staff Retirement Benefits

-Vernon Muller, Deputy State Fire Marshal

The Fire Marshal's Office is seeking 20-year retirement for its members.

Senator Smith asked how many Fire Marshal Office employees are "return-to-work employees". Mr. Muller responded that two employees are return-to-work employees.

Senator Smith indicated that he is opposed to enhanced benefits because of the difficulties that have been experienced with the Educational Retirement Board (ERB).

Senator Leavell said that he is not convinced that enhanced retirement benefits are an effective recruiting tool.

Representative Bratton is concerned about establishing a precedent with respect to enhanced retirement.

Representative Varela asked if municipal firefighters have a 20-year retirement plan. Mr. Muller responded that Municipal Retirement Plan Number Five is a 20-year plan.

Volunteer Firefighters' Retirement Benefits

-Gay Chambers, President, New Mexico Volunteer Firefighters

The Volunteer Firefighter Retirement Plan was implemented by statute in 1978. The amount of compensation was set at that time and has not been changed since that time.

The volunteer firefighters feel it is time to address this issue and update the compensation to better reflect not only the times but the respect that is due the volunteer firefighter. It is also time to get all of the records of the volunteers up to date. The Public Employees Retirement Association (PERA) has 16,000 volunteer firefighters on its rolls. The entire state only has 8,000 firefighters, including paid firefighters. Volunteer firefighters will be happy to help PERA in any way to correct this problem, but they must ask that PERA be willing to help and work with them. Volunteer firefighters are losing volunteers at a rapid rate, and with 87 percent of New Mexico's fire protection being provided by volunteers, the day is rapidly approaching where counties will have to start paying for firefighters. If this retirement is handled properly, it could be a major incentive for retention.

The New Mexico State Firefighters Association was present to address one part of this problem, the retirement issue. In a recent survey sent out to the state's fire service, the one issue that was uppermost in volunteer's minds was the retirement plan and making it something worthwhile. Recruiting and retention are major issues facing the service, and even the

Governor's Commission on the Fire Service in New Mexico was charged with addressing this problem. The only benefit New Mexico has to offer the volunteer firefighter at this time is a reasonable retirement stipend. Perhaps, in the future, there will be some other compensation but currently this retirement is it. The firefighters recognize that this retirement was never intended to support individuals in their retired years but a reasonable supplement is not too much to ask for people who "put it on the line" for no other reason but to give back to their community.

Representative Heaton asked Mary Frederick of the PERA to comment on the fiscal impact.

Ms. Frederick indicated that PERA does not have accurate information regarding the true number of volunteer firefighters. PERA records show a potential of 16,000 volunteer firefighters and PERA is trying to purify the database.

Representative Heaton requested PERA to report to the committee before the 2007 session regarding the financial status of the Volunteer Firefighters Retirement Fund. Ms. Frederick indicated that PERA could do a special mailing to fire chiefs requesting a current list of firefighters. Representative Heaton suggested that such a letter should notify the fire chiefs that the legislature is considering an increase in retirement benefits but will be unable to act if the information is not received.

Senator Leavell indicated that unless PERA conducts an audit of active volunteer firefighters, he is unable to support the proposal.

Senator Smith said that without an accurate database there could be legal issues with respect to retirement claims.

Senator Griego suggested that the volunteer association should be working with the fire chiefs to purify the database.

Senator Rawson suggested that a minimal contribution to the retirement fund by volunteer firefighters would serve to identify the firefighter as an active member.

Representative Bratton indicated that some rules must be established to identify the correct number of firefighters. The legislature needs to know the actual cost before moving forward with an increase in retirement benefits.

Representative Heaton summarized that the legislature needs accurate information regarding the number of firefighters and the actuarial status of the fund. He also agreed with Senator Rawson regarding monetary participation on the part of the volunteer firefighter. Representative Heaton recommended that the volunteer association return to the committee at its first meeting during the 2007 interim. Also, he suggested that the legislature appropriate approximately \$3,000 to PERA to perform an actuarial study of the Volunteer Firefighters Retirement Fund.

PERA Actuarial Report; Impact of Return to Work

-Mary Frederick, PERA

The purpose of the cost study is to measure the cost to the retirement system of allowing PERA retirees who return to work while receiving pension benefits and a salary and to establish contribution rates to be charged to employers who rehire PERA retirees effective January 1, 2007. The history of return to work is as follows:

- in 2004, the legislature passed a bill allowing retirees to return to work for a PERA affiliate, collecting both a pension and a salary;
- PERA could not estimate the cost or impact, if any, to the fund without gathering actuarial data;
- PERA's actuary determined the fund needed two years of experience under the back-to-work provisions to calculate the cost and impact on the fund;
- from 2004 to 2006, employers paid employer contribution on the reemployed retirees from the first day of employment. Reemployed retirees did not pay contributions until reaching a salary of \$25,000 in a calendar year. At that time, the reemployed retiree began making nonrefundable contributions to the fund;
- the legislation provided that, as of December 31, 2006, no additional employee contributions would be required from reemployed retirees; and
- as of January 1, 2007, the employer will be required to make contributions to the fund in the amount specified by the PERA Act or a higher amount adjusted for "full actuarial cost" as determined annually by PERA.

The result of the actuaries' findings are summarized as follows:

- sufficient experience has not developed to evaluate return-to-work statistics at the plan level;
- data is most credible when looking at PERA in total;
- length of reemployment is critical to the evaluation;
- sufficient experience has not yet developed to determine the average reemployment time (3.5 years was assumed in the study, sensitivity is shown by showing results on three years);
- the level of reemployment pay is critical to the evaluation;
- on average, reemployment pay appears to be significantly lower than pre-retirement pay;
- PERA has expressed concerns about sufficient reporting of reemployed retirees;
- based on information that is currently available, the actuary recommends that PERA collect contributions on all reemployment pay equal to the sum of the statutory employer rate and the statutory employee rate for the plan in which the reemployed retiree's position would be eligible for participation;
- based on the study, it is expected that the recommended contribution rate will result in assets that cover between 96 percent and 111 percent of the costs generated by the retirees who have returned to work;

- PERA's actuary recommends continued periodic studying of the return-to-work program to coincide with the four-year experience study;
- PERA's actuary recommends collecting data specific to the length of reemployment for return-to-work members; and
- accurate data is critical to an accurate evaluation, and PERA must rely on employers to report accurate data.

Representative Lundstrom asked how many "return-to-work employees" are state employees and how many are municipal.

Senator Smith suggested adding a requirement to the appropriations bill that would require return-to-work employees to contribute to the retirement system.

Consideration of Draft Legislation

-Cleo Griffith, LCS

Regarding the ERB composition, Senator Smith suggested that rather than adding a representative from the New Mexico Federation of Educational Employees (NMFEE) to the ERB, the additional member should simply be someone representing teachers. Representative Heaton asked about the mechanism for appointing a general teacher's representative. Senator Smith suggested that teacher organizations would nominate a representative and the governor would then appoint that person.

Carter Bundy, representing the American Federation of State, County and Municipal Employees (AFSCME) Union, wants to see university employees represented on the ERB and not another governor's appointee.

Representative Heaton suggested that the NMFEE be deleted from the bill draft and a governor's appointee representing teachers be substituted. He also suggested that the representative should have five years of investment experience.

Senator Rawson suggested that such an experience requirement would be excessively restrictive when applied to active teachers.

Robert Schulman, ERB general counsel, asked to pass over the legislation and allow ERB to continue to work with the LFC in developing recommendations with respect to the ERB composition.

Senator Rawson noted the absence of a quorum of voting members.

The committee did not endorse draft 202.164424.

Regarding creation of a permanent committee, the committee endorsed draft 202.164419.

Regarding return to work, Mr. Bundy stated that ASFCME is opposed to return to work. Jeff Varela, PERA board member, said that the draft legislation creates a disparity between state and municipal employees.

Senator Griego indicated that he believes there should be a definition of "critical position".

Representative Stell noted that the bill draft would terminate return to work for conservation districts.

Representative Bratton supports the "critical position" concept and would like to add a time limit.

A quorum was reestablished.

The committee endorsed draft 202.164420.

Mark Valdez, deputy state treasurer, explained the initiative to expand the Short-Term Investment Fund. The initiative would open the fund to tribal governments and other political subdivisions.

Representative Bratton asked if the state would be subject to legal action if a tribal government lost money by investing in the proposed Short-Term Investment Fund. Mr. Lewis stated that the issue would be addressed before the bill is introduced.

Representative Varela asked if the State Treasurer's Office is being given the authority to invest in mutual funds by the proposed legislation. It was noted that the State Treasurer's Office is currently investing in money market mutual funds with the approval of the State Board of Finance.

The committee endorsed draft number 202.164421 with two amendments that would make appropriations subject to the appropriations process and fees subject to LFC review.

With respect to the creation of an irrevocable retiree health care trust, Senator Carraro believes the language should be strengthened with respect to the admonition that the legislature is not creating a property right concerning retiree benefits.

Representative Stell suggested that the creation of an irrevocable trust should be accomplished through a constitutional amendment.

The committee endorsed draft number 202.163149.

With respect to memorial concerning the Severance Tax Permanent Fund "sweep", the committee endorsed the proposal and instructed that the memorial be made into a bill.

With respect to the memorial concerning a moratorium on enhancement benefits, Mr. Bundy stated that AFSCME is opposed to the moratorium and would not make a proposal to enhance benefits that would be actuarially unsound. Paula Fisher, representing juvenile correction officers, stated that the officers are requesting 20-year retirement and will be introducing a bill to that effect.

The committee endorsed draft 202.164423.

Robert Schulman explained that ERB would like to change the retirement contribution calculation for upper-income persons to conform to the Internal Revenue Service cap of \$200,000.

The committee did not endorse the proposed legislation.

Other Business

There was no other business brought before the committee.

The committee adjourned at 2:00 p.m.